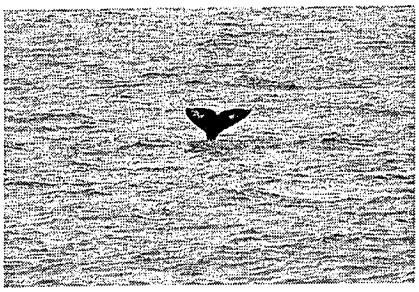

GRAY WHALES COUNT

A JOINT RESEARCH AND EDUCATION PROJECT OF UCSB'S COAL OIL POINT RESERVE, GOLETA + AMERICAN CETACEAN SOCIETY – CHANNEL ISLANDS + CASCADIA RESEARCH COLLECTIVE, WA + MARINE PHYSICAL LABORATORY, SCRIPPS INSTITUTION OF OCEANOGRAPHY, UCSD, LA JOLLA

ERIC GILLIES, PROJECT MANAGER
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2007 OCTOBER 16, PAGE 1 OF 4

Dear Mr. Gillies,

RE: PRC 421 Recommissioning Project

I am the Project Coordinator for Gray Whales Count, a research and education project surveying the northbound migration of gray whales through the nearshore of the Santa Barbara Channel from Coal Oil Point. From our observation position, we look out at Platform Holly, approximately two miles offshore, and we have a good vantage to observe the buoys off Sands Beach for Venoco's Ellwood Marine Terminal where the oil barge is filled.

Last year I submitted comments that included data from Gray Whales Count 2006. In May, we concluded our 2007 survey of the northbound migration of gray whales and my comments here will update data and include descriptions of observations we think are relevant to this Draft Environmental Impact Report.

Before I get into what we saw in 2007, I would like to make specific comments about and corrections to the Draft EIR:

Page 4-39, Section 4.5 Biological Resources

Line 13: Our project is Gray Whales Count: gray is spelled with an "a," not an "e."

Line 14: Gray whales are classified as *Eschrichtius robustus*. *Megaptera novaeangliae* is the classification for humpback whales.

Line 21: The migration is not just a springtime occurrence. We begin our survey in the winter at the end of January and continue through the middle of May. Our focus is the northbound migration of gray whales. Beginning in November and extending well into April, gray whales migrating south can be observed.

Lines 21-24: In August of 2006 we also contributed sighting information on southbound gray whales *(Eschrichtius robustus)*, 34 (1 calf); bottlenose dolphins *(Tursiops truncatus)*, 989 (217 calves); sea otters *(Enhydra lutris)* 12; humpback whales *(Megaptera novaeangliae)* 40; and 28 unidentified large whales, and a single, rare sighting of a northern elephant seal *(Mirounga angustirostris)*.

The Santa Barbara Channel hosts one of the largest and most diverse selections of marine mammals in the world. Some like harbor seals *(Phoca vitulina)* and California sea lions *(Zalophus californianus)* are "residents" who inhabit the nearshore around Coal Oil Point. For our survey, we do not track either sea lions or harbor seals. We do record other marine mammals in an effort to document their presence. Gray whales are migrating through the Channel and passing southbound or northbound by the Point. All the other animals we observe are residents or visitors here in search of food. Unlike gray whales, other species we track are not necessarily unique animals. We could be Counting the same individuals over and over.

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For example, normally, we see bottlenose dolphins almost every day, often several times the same day. If we are able to continue tracking them, even going back and forth, that is a single sighting, and they are Counted once. But, if three heading east go by in the morning and we cannot see them anymore, and three heading west come by in the afternoon, it might be the same trio; or, it might not. We enter a new sighting and treat them as separate animals. If that same trio were to go back and forth every hour, we would total 24 dolphins for the day, when it was actually only three. Since we are not photographing the dolphins, we have no way to know if it is three back-and-forth dolphins or 24, unique animals.

In 2007, we did not see dolphins every day, and on a few occasions we had gaps of three days between sightings. Domoic acid *(Pseudo-nitzchia)*, a neuro-toxin that is produced by a naturally occurring algal bloom, was detected in our area, but mild compared with past years. It was, however, stronger in Ventura and Los Angeles Counties; and we believe the dolphins we see in Goleta range through that area. It could be that the population was affected. We aren't able to tell. When we did see dolphins, they were active and appeared healthy. One day, we observed a string of small groups, and so we were able to Count at least thirty, unique animals, which might indicate their numbers remain strong. We hope so.

We are conducting our survey eight hours a day, every day, weather permitting. Our observations are a sample, subjected to analysis. As such, we are able to estimate the number of unique, gray whales traveling north during the fifteen weeks we survey. Since we are not in position to estimate the southbound migration, our tallies record just what we have seen. Furthermore, for other species, we are documenting their presence rather than estimating population size.

These are meaningful numbers, especially since this is the only survey of its type in the area.

I am attaching a record of our observations in 2007 to the end of this letter.

This year we had a huge increase from 12 to 66 sea otters. One day we saw four separate animals in front of us. In addition we heard reports of sightings of sixteen to twenty animals together at Naples Point. There were a lot of otters here.

The other very significant change from 2006 to 2007 was the critical drop off in northbound, gray whale calves. In 2006 we saw 118 and in 2007 we observed only 52.

Through comparative analysis of our 2007 observation sample of 664 hours and 9 minutes over 105 days Counting, we estimate that 2,363 northbound, gray whales traveled through the nearshore past Coal Oil Point: 85.09% of 2006.

And, we estimate that 267 calves made their first trip north on the nearshore route, which represents just over half (53.19%) of our revised 2006 estimate.

The decline was likely caused well beyond the Santa Barbara Channel, yet in the Channel and around Coal Oil Point, the gray whale migration faces a culture clash with a range of man-made impediments and perils in the nearshore and even some dangerous, natural threats, including killer whales and the second largest, natural oil-seep in the world. All around Coal Oil Point methane gas coated in petroleum percolates to the surface. Tar floats where whales swim and the gurgling gas must at times startle the animals and, perhaps, confuse them with a unique sound in their water-path.

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The Santa Barbara area is home to a number of recreational boaters and an active commercial fishing industry. Lobster and urchin harvesters frequent our survey area. Platform Holly is just two miles offshore. On one occasion we watched a group of whales split up with three traveling inside of the oil platform and three traveling outside.

Crew/service boats regularly cross the whale-migration route, sometimes several times a day. Approximately every three weeks a huge barge is towed by a large tug and assisted by a smaller tug to aid in positioning the barge between buoys, a half-mile off Sands Beach just west of our position. The operation takes about thirty hours to secure the barge, fill it with oil from storage tanks on shore, and then maneuver the barge into the open water of the Channel. The flotilla seems to overwhelm the area with noise and physical presence. If that is not bad enough, each cycle brings the very real risk of a catastrophic oil spill in a delicate area inhabited by threatened and endangered species.

In early May, the oil barge was in trouble. We opened the Count on May third at 09:00 AM with a very light breeze. The oil barge had apparently arrived in the early morning and had begun the filling process. Unfortunately, the wind increased steadily and forced us to close down our survey at noon with the barge operation still in progress, while the wind was blowing between 25 and 30 knots.

The next morning when we showed up to Count, the wind was still strong, but the barge was not between the buoys. One of our observers spotted the tug and barge southeast of us on the horizon, between six and seven miles away. The wind seemed quite strong out where they were with waves crashing across the barge. We noted that the barge was apparently not filled because we observed significant freeboard, but there was probably some oil in the hold. We cancelled the survey again on the fourth due to high winds.

It was a bit calmer on the morning of the fifth. At 09:00 AM we saw the tug pulling the barge very close to shore along the kelp in front of us and going towards the buoys.

Again, the winds came up very strong, and we closed the Count at noon with the oil barge between the buoys, probably continuing the filling process in the wind. On the morning of May sixth, the wind was gone and so was the oil barge.

We are just observers Counting whales. Maneuvering a huge oil barge through the Channel, to say nothing of the nearshore, must be very difficult, and we assume the crew is exceptionally skilled. Even so, the barge appeared to be in jeopardy in early May of 2007, and we tried not to contemplate the consequences.

That was scary, but even routine barge operations pose a significant threat to the whales. The tug and barge take a long time to approach and leave the buoys. The tug must be very loud, and there is a real danger of collision while the vessels are maneuvering in the migration route. In place between the buoys—not moving—the barge, tugs, and an observation vessel are an obstacle for the whales. Most cow/calf pairs travel very close to shore in April and May. When the barge is not there, some whale pairs swim right between the buoys where the barge parks.

Mitigation Measure BIO-5a, page 4-40, lines 15 - 21: The mitigation measures proposed are not, in our opinion, adequate as written; and the purpose has not been expressed. We feel "proper training" has not been defined. We believe the task of maneuvering the vessels is itself significant. Searching for marine mammals requires particular attention, and it is not always possible in rough weather aboard a vessel

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when eye level is just above sea level. As noted above, we are observers, and we know how difficult it is to find and track even large whales. We are up above the water, on dry land, and we are not trying to steer a boat.

Then there is the problem of what would be achieved by having even a NOAA-certified observer. Could the tow vessel maneuver away from a whale approaching from maybe a quarter-mile away? Is it advisable to shut down or even slow down in the nearshore when towing a fully loaded barge? Frankly, I do not know. Perhaps, there is data on the east coast where there has been a great deal of planning about ship avoidance of whales.

What an observer might do is, at the least, help gather some data. A fully independent observer could note sightings and communicate with the captain. That communication could become record, and maybe we could all learn from it. We would learn how often and under what circumstances animals are close enough to be observed. Animal behaviors could be noted, and we might learn about crew reactions and what measures seem better than others. Furthermore, an independent observer could report near misses or even collisions.

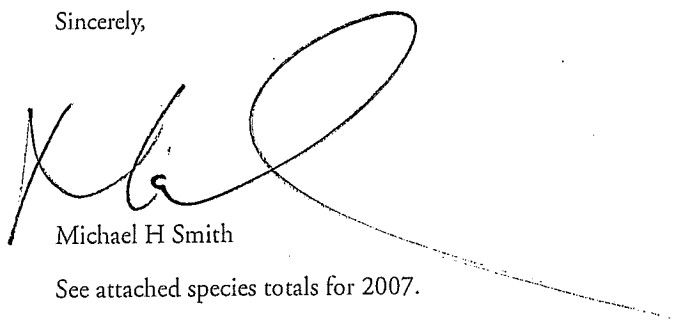
This past summer, three blue whales were apparently struck and killed by ships in open waters in the Santa Barbara Channel. In the nearshore animals don't have as many options for avoidance. Last year, just outside of Santa Barbara Harbor a gray whale breached and landed on a boat.

While we would prefer to see the barge operation terminated, as long as the Ellwood Marine Terminal operates, we believe there should be independent, qualified observers on the vessels and it should be year round, with added observation during both legs of the gray whale migration.

Again, we realize that navigating with a huge barge in tow is difficult, especially in the nearshore. Even so, we would like restrictions on approaching and leaving the buoys so that vessels do not parallel the shore along the kelp.

Thank you for your consideration.

Sincerely,



Michael H Smith

See attached species totals for 2007.

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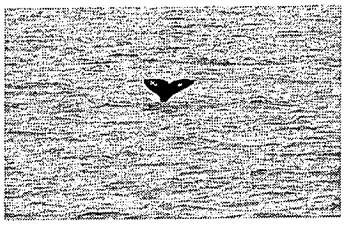

Gray Whales Count

A joint education and research project of
UCSB's Coal Oil Point Reserve, Goleta, CA +
American Cetacean Society–Channel Islands, CA +
Cascadia Research Collective, Olympia, WA

2007 Sighting Reports

Species: Totals – Summary

	Number Sighted	Number of Calves	Number of Sightings
ER Gray whale (northbound)	567	52	307
TT Bottlenose dolphin	901	24	180
EL Sea otter	66	0	64
ULW unidentified large whale	8	0	8
ER Gray whale (southbound)	28	0	21
MN Humpback whale	6	0	3
D sp Common dolphin species	1,060	0	2
LO Pacific white-sided dolphin	3	0	1
MA Northern elephant seal	1	0	1

The focus of the survey is Er *Gray whales (northbound) during migration. We recorded sighting data for all cetaceans and Sea otters observed, including a distinguishing tally of* Er *Gray whales (southbound).*

Note: Of the species sighted, only gray whales (north and southbound) were migrating past the Point. Their tallies indicate the number of unique animals observed during the survey. All other cetaceans and Sea otters were likely seen over and over on different days as the survey progressed. The tallies of these species represent the number of animals (not necessarily unique) observed and recorded throughout the survey. Even though we were not recording pinnipeds, we did include the unusual sighting of a Northern elephant seal because, well, it was unusual.